

Davor Rukavina, Esq.
Texas Bar No. 24030781
Thomas D. Berghman, Esq.
Texas Bar No. 24082683
Conor P. White, Esq.
Texas Bar No. 24125722
500 N. Akard Street, Suite 4000
Dallas, Texas 75204
Telephone: (214) 855-7500
Facsimile: (214) 855-7584

COUNSEL FOR SCOTT M. SEIDEL, TRUSTEE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

| | | |
|------------------------------------|---|-------------------------|
| In re: | § | |
| | § | Case No. 22-31641-mvl-7 |
| GOODMAN NETWORKS, INC., | § | |
| | § | (Chapter 7) |
| Debtor. | § | |
| | § | |
| SCOTT M. SEIDEL, TRUSTEE; | § | |
| GNET ATC, LLC; MULTIBAND | § | |
| FIELD SERVICES, INC., | § | |
| | § | |
| Plaintiffs, | § | |
| | § | ADVERSARY PROCEEDING |
| v. | § | NO: 23-03036 |
| JAMES FRINZI; FRINZI FAMILY TRUST; | § | |
| MULTIBAND GLOBAL RESOURCES, | § | |
| LLC, | § | |
| | § | |
| Defendants. | § | |

PLAINTIFFS' MOTION TO STRIKE JURY DEMAND

TO THE HONORABLE MICHELLE V. LARSON, U.S. BANKRUPTCY JUDGE:

COMES NOW Scott M. Seidel (the “Trustee”), the duly-appointed chapter 7 trustee of Goodman Networks, Inc. (the “Debtor”), the debtor in the above-styled and numbered chapter 7 bankruptcy case (the “Bankruptcy Case”), and, together with GNET ATC, LLC (“GNET ATC”)

and Multiband Field Services, Inc. (“Multiband,” and with the Trustee and GNET ATC collectively, the “Plaintiffs”), the Plaintiffs in the above-styled and numbered adversary proceeding (the “Adversary Proceeding”), file this *Motion to Strike Jury Demand* (the “Motion”) pursuant to Federal Rule of Civil Procedure 12(f) and respectfully request that this Court strike the *Defendants’ Jury Demand* (the “Jury Demand”) [Docket No. 31] filed by James Frinzi (“Frinzi”), Frinzi Family Trust (“FFT”), and Multiband Global Resources (“MGR,” and together with Frinzi and FFT, the “Defendants”) and as incorporated in the Defendants’ *Answer to Amended Complaint* (the “Defendants’ Answer”) [Docket No. 36]. In support of this Motion, the Plaintiffs respectfully state as follows:

1. The Court has jurisdiction over this Motion pursuant to 27 U.S.C. § 1334. Such jurisdiction is core under 28 U.S.C. § 157(b)(2). To the extent that any matter in this Adversary Proceeding is not core, the Plaintiffs request that this Court recommend to the District Court by written report and recommendation that the District Court strike the Jury Demand.
2. Venue before this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. Pursuant to Federal Rule of Civil Procedure 38, a jury demand may only be made no later than fourteen (14) days after the last pleading directed towards the issue is served. The Plaintiffs’ *Original Complaint* (the “Original Complaint”) [Docket No. 1] was filed on May 4, 2023. In each of the Defendants’ timely answers to the Complaint, no jury demand was made. Only upon the Plaintiffs’ service of that certain *Amended Complaint* (the “Amended Complaint”) [Docket No. 30], and contemporaneous with their *Motion to Withdraw the Reference* [Docket No. 32], did the Defendants make their first jury demand under Rule 38. Because Fifth Circuit case law instructs that an amended complaint does not revive a previously waived right to demand a jury trial, and because the Amended Complaint raises no materially different issues than the

Original Complaint, the Defendants have effectively waived their right to demand a jury trial under Rule 38. In support of this Motion, the Plaintiffs rely upon their contemporaneously filed *Brief in Support of Motion to Strike Jury Demand*.

WHEREFORE, PREMISES CONSIDERED, the Plaintiffs respectfully request that the Court enter an order (i) granting this Motion, (ii) striking the Jury Demand, (iii) striking the reincorporated jury demand asserted in the Defendants' Answer, and (iv) providing the Plaintiffs such other and further relief to which they are entitled at law or in equity.

RESPECTFULLY SUBMITTED this 15th day of December, 2023.

MUNSCH HARDT KOPF & HARR, P.C.

/s/ *Conor P. White*

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CHAPTER 7 TRUSTEE**

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that on the 14th day of December, 2023, he conferred with Paul Elkins, counsel for the Defendants, and that Mr. Elkins informed him that the Defendants were opposed to such relief.

/s/ Conor P. White
Conor P. White

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 15th day of December, 2023, he caused true and correct copies of the foregoing document to be served via the Court's CM/ECF system on all parties entitled to notice thereby and upon counsel of record for the Defendants, Jason M. Rudd, Jason.rudd@wickphillips.com; Scott D. Lawrence, scott.lawrence@wickphillips.com; Catherine A. Curtis, catherine.curtis@wickphillips.com; Mallory A. Davis, Mallory.davis@wickphillips.com; and Paul T. Elkins, paul.elkins@wickphillips.com, via email..

/s/ Conor P. White
Conor P. White